

IOWA DENTAL BOARD

OCTOBER 28-29, 2008 MEETING MINUTES DES MOINES, IOWA

The open session meeting of the Iowa Dental Board was called to order at 10:45 a.m. on Tuesday, October 28, 2008, in the conference room, 400 S.W. 8th St., Suite D, Des Moines, Iowa, by the chairperson of the board, Deena R. Kuempel, D.D.S.

Members present at this meeting:

Deena R. Kuempel, D.D.S., Chairperson
Gary D. Roth, D.D.S., Vice Chairperson
Eileen A. Cacioppo, D.H., Secretary
Michael J. Rovner, D.D.S.
Lynn D. Curry, D.D.S.
Perry T. Grimes, D.D.S.
VaLinda J. Parsons, D.H.
Elizabeth Brennan, Public Member *October 29, 2008 only
Diane Meier, Public Member

Also present: Constance L. Price, Executive Director
Christel Braness, Administrative Assistant
Phil T. McCollum, Investigator
Dee Ann Argo, Administrative Assistant
Theresa O'Connell Weeg, Assistant Attorney General
Jennifer Hart, Executive Officer
Janet Arjes, Executive Officer

PUBLIC COMMENT

Dr. Kuempel allowed time for public comment.

MINUTES

Motion by Dr. Roth, seconded Dr. Rovner, to approve the minutes of the July 16, 2008, meeting of the board, and the August 28, 2008, teleconference meeting of the board.

Vote: Unanimous.

Motion carried.

EXECUTIVE DIRECTOR REPORT

FISCAL REPORT

Ms. Price reported that the board members had been provided with financial status updates for fiscal year 2008 (final) and fiscal year 2009. Ms. Price reported that the board is on track with projected costs.

DATABASE PROJECT

Ms. Price reported that board staff is still pursuing the database project based on responses to the Request for Proposals.

MEETING WITH SENIOR DENTAL STUDENTS

Ms. Price reported that the University of Iowa College of Dentistry has requested that board staff present to its senior class again next year. The board is scheduled to meet with the class on March 25, 2008, from 8:00 a.m. to 9:00 a.m. Ms. Price said that board members interested in participating are welcome to attend.

AMERICAN ASSOCIATION OF DENTAL ADMINISTRATORS (AADA) ANNUAL MEETING

Ms. Price thanked the board for the opportunity to attend the annual AADA meeting earlier this month in San Antonio, Texas. Ms. Price reported topics discussed at the meeting included tooth whitening/bleaching services, dental labs, and current proposed workforce models.

Ms. Price reported that the American Association of Dental Examiners (AADE) amended its bylaws to create a new administrator position on the AADE Executive Council. This administrator position will be filled by the immediate past-president of the AADA. This new position is a non-voting, non reimbursed position that will rotate on an annual basis.

Ms. Price reported that she will be in line to serve on the AADE Executive Council as she was elected Secretary of the AADA at this meeting.

AMERICAN ASSOCIATION OF DENTAL EXAMINERS (AADE) ANNUAL MEETING

Dr. Kuempel reported that she attended the AADE meetings earlier this month in San Antonio, Texas. Dr. Kuempel reported that the AADE discussions included changing the AADE draft guidelines on comprehensive pharmaceutical drug evaluations. Dr. Kuempel reported that an idea was also presented to allow dental students with impairments to participate in state recovery programs.

Dr. Kuempel stated that there was discussion about the proposed changes to the dental national board examinations. The proposal would change the examination from a scored examination to a pass/fail examination. The students would still be required to demonstrate proficiency in the areas tested.

Dr. Kuempel reported that the next mid-year meeting of the AADE is April 6-7, 2009, in Chicago, Illinois.

LEGAL UPDATE

Ms. Weeg reported that Dr. Andre Q. Bell appealed his case to district court and the court confirmed the board's decision. Dr. Bell did not appeal this decision in a timely manner for the state supreme court to review. Dr. Bell sought review in the U.S. Supreme Court. The U.S. Supreme Court denied his request for review. Dr. Bell has since filed lawsuits against certain individuals including Governor Chet Culver. The office of the Attorney General is seeking to have the lawsuits dismissed.

Ms. Weeg reported that Dr. Bell had legal counsel while appealing his case to the district court. However, Dr. Bell no longer has legal counsel and is once again representing himself.

COMMITTEE REPORTS

EXAMINATIONS

CENTRAL REGIONAL DENTAL TESTING SERVICE, INC. (CRDTS)

CRDTS DENTAL STEERING COMMITTEE REPORT

Dr. Kuempel reported that CRDTS held its annual meeting in August 2008. Dr. Kuempel has asked that all of the board members mark their calendars to attend the annual meeting in 2009. Beginning next year, all board members and board executive directors who wish to attend will be reimbursed for costs. Given all of the current issues, Dr. Kuempel feels that it is imperative that the board be well informed in these matters.

CRDTS DENTAL EXAMINATION REVIEW COMMITTEE

Dr. Roth reported that the dental ERC met briefly. The committee reviewed scores from schools and discussed the analysis of the data. This information will be forwarded to ADEX once completed for review.

CRDTS DENTAL HYGIENE EXAMINATION REVIEW COMMITTEE

Ms. Cacioppo reported that the dental hygiene ERC can present resolutions to CRDTS Steering Committee for approval. These resolutions are then forwarded to ADEX for review.

Ms. Cacioppo reported that there is currently no contract with NERB to administer the dental hygiene ADEX examination. The ERC proposed administering the same dental hygiene clinical examination that it has administered for the past three years. The CRDTS Steering Committee approved that proposal.

ADEX EXAMINATION COMMITTEE

Dr. Kuempel stated that she did not have a report to make at this time.

NATIONAL BOARD SCORE REPORT – PROPOSED REVISIONS

This item was addressed previously in the meeting. However, Ms. Price reported that this change, should it go into effect, would require a revision to board rules.

ANESTHESIA CREDENTIALS COMMITTEE (ACC)

The ACC met in Iowa City on October 21, 2008. The ACC addressed some of the proposed rule changes. Iowa's requirements for sedation permits have always been different from ADA in terms of training requirements. The ACC felt that it was important to continue to require higher levels of training in the area of sedation. Iowa has had two sedation-related deaths in the last year. Other states have also reported sedation related deaths in recent years.

The ACC recommends that the following guidelines be followed:

- Licensees should always follow the drug manufacturer's prescribing guidelines. The maximum dosage amount should not exceed the maximum dosage recommended by the drug manufacturer.
- The drug selected should be based on patient need, procedure length, and the professional skill and judgment of the dentist. Licensees should ensure they maintain an updated, current health history for all patients so they are aware of all medications or drugs utilized by the patient.
- Licensees should only prescribe or administer a single dose of the drug.
- Licensees should utilize only one drug. If the intent is to administer multiple medications or utilize a single drug in combination with nitrous oxide inhalation analgesia, the licensee should hold a permit for conscious sedation.
- The use of nitrous oxide inhalation analgesia without administering or prescribing another drug for anti-anxiety premedication does not constitute sedation and licensees do not need a permit.

Dr. Roth also reported that there was discussion about licensees using advertising with the term "sleep dentistry." . The ADA does not define the term sleep dentistry and its use in advertising can be very misleading. Dentists should be reminded of their obligation to be truthful and not mislead patients in their advertising. If a dentist uses the term "sleep dentistry" in their advertising, the dentist should also plainly state the level of sedation provided and who that service is provided by. The board concurred with the committee's recommendations that information about sleep dentistry be made available on its website.

Dr. Roth reported that the committee is moving forward with plans to incorporate conscious sedation permit holders into a five-year rotation for peer review evaluations, similar to those currently performed on all general anesthesia permit holders.

REBECCA SLAYTON, D.D.S.

PERMIT APPLICATION

The members of the board considered an application for issuance of a conscious sedation permit.

Motion by Dr. Roth, seconded Ms. Parsons, to approve the conscious sedation permit for Rebecca Slayton, D.D.S.

Vote: Unanimous.

Motion carried.

CONTINUING EDUCATION ADVISORY COMMITTEE

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve the continuing education courses as submitted to the board.

Vote: Unanimous.
Motion carried.

Ms. Cacioppo reported that the Institute for Advanced Therapeutics has submitted several courses for review following application for sponsor status.

Motion by Ms. Cacioppo, seconded Dr. Curry, to deny sponsor status at this time and to review their courses on an individual basis.

Vote: Unanimous.
Motion carried.

Ms. Cacioppo reported on continuing education audit results from the recent dental license renewal. Ms. Cacioppo also reported that a number of continuing education sponsors submitted application for recertification of their sponsor status. The board was provided a list of these sponsors.

Motion by Ms. Cacioppo, seconded Dr. Roth, to approve sponsor status to the organizations submitted.

Vote: Unanimous.
Motion carried.

DENTAL ASSISTANT COMMITTEE

Dr. Roth reported that the Dental Assistant Committee met in September. The main issue for discussion was a request to amend state law and board rules to allow dental assistants to remove permanent cement. The committee is recommending no changes to state law or board rules.

Motion by Dr. Curry, seconded Dr. Roth, to accept the recommendation of the committee.

Vote: Unanimous.
Motion carried.

DENTAL HYGIENE COMMITTEE

Ms. Cacioppo reported that the Dental Hygiene Committee met earlier in the morning, just prior to the board meeting.

Ms. Cacioppo reported that there had been a question as to the scope of practice of dental hygienists and whether they should be allowed to cement temporary or provisional appliances. The Dental Hygiene Committee felt that these duties fall within the scope of practice of a dental hygienist. The Dental Hygiene Committee recommends that these duties be allowed under the direct supervision of a licensed dentist.

Motion by Ms. Cacioppo, seconded Dr. Roth, to draft a rule change to specify that a dental hygienist can place provisional appliances under the direct supervision of a licensed dentist.

Vote: Unanimous.
Motion carried.

PETITION FOR RULEMAKING IOWA DENTAL HYGIENE ASSOCIATION

Ms. Cacioppo reported that the Dental Hygiene Committee received a petition for rulemaking from the Iowa Dental Hygienists' Association (IDHA). The petition requests that subrule 10.5(3)"a"(3) be amended by eliminating the requirement that a public health supervision agreement must, "specify a period of time, no more than 12 months, in which an examination by a dentist must occur prior to providing further hygiene services." The Dental Hygiene Committee will be suggesting that the board approve the petition.

The committee reported that the petition was received after the board agenda and materials had been finalized and is therefore not scheduled for a vote by the full board at this meeting. Ms. Price reminded the board that a petition for rulemaking must be decided within 60 days. The next board meeting is scheduled for January 2009. The board asked if the IDHA would consider temporarily withdrawing the petition and refiling it prior to the January board meeting to ensure the board could meet the 60-day deadline without holding a special meeting. The IDHA representative agreed to the request. The petition will be considered by the full board at their January 2009 meeting.

CONSIDERATION OF RULES

Ms. Hart reported that the board's Annual Regulatory Plan has been posted to the board's website. Board members were copied on the plan and should advise if any changes are needed.

650 IOWA ADMINISTRATIVE CODE CHAPTER 29 "DEEP SEDATION/GENERAL ANESTHESIA, CONSCIOUS SEDATION AND NITROUS OXIDE INHALATION ANALGESIA" ADA GUIDELINES/ANESTHESIA CREDENTIALS COMMITTEE RECOMMENDATIONS CONSIDER NOTICE OF INTENDED ACTION

Ms. Hart reported that the proposed changes were published Notice of Intended Action in August and that the board had received two comments. The Anesthesia Credentials Committee reviewed the comments and recommends no changes to the proposed rules based on the comments.

The board discussed the need to incorporate the latest suggestions of the Anesthesia Credentials Committee specifying guidelines for antianxiety premeditation. To incorporate those changes into the current amendments would be too big of a change to the Noticed rules without allowing the opportunity for public comment on the new guidelines. The clearest course of action would be to terminate the current rulemaking action and re-file the rules and allow interested parties an opportunity to comment on the changes.

Motion by Ms. Cacioppo, seconded Dr. Curry, to terminate the Notice of Intended Action.

Vote: Unanimous.
Motion carried.

650 IOWA ADMINISTRATIVE CODE
CHAPTER 35 "IOWA PRACTITIONER REVIEW COMMITTEE"
COMMITTEE MEMBER TERMS OF SERVICE
ADOPTED AND FILED
EFFECTIVE OCTOBER 1, 2008

Ms. Hart reported that these rules are now effective.

LEGISLATION – 2008 SESSION

IOWA CODE CHAPTER 147.14

Ms. Price reported that staff has received input from the associations concerning the current prohibition of faculty members serving on the dental board.

Motion by Ms. Cacioppo, seconded Ms. Parsons, to meet with the associations and try to draft statutory language that all would be comfortable with allowing faculty members to serve on the board.

Vote: Unanimous.
Motion carried.

TOOTH WHITENING AND THE PRACTICE OF DENTISTRY

Ms. Price encouraged the board to pursue clarification in the Iowa Code pertaining to tooth whitening. A number of other states are pursuing this as well. Ms. Weeg stated that a change in the statute would be a good way to clearly define the issue.

Motion by Dr. Roth, seconded Dr. Rovner, to pursue the statute change to clarify that tooth whitening is part of the definition of the practice of dentistry.

Vote: Unanimous.
Motion carried.

CONSIDERATION OF ISSUES

IOWA BOARD OF NURSING POSITION STATEMENT – PROPOFOL

Ms. Price previously reported that the Iowa Board of Nursing pursued rule changes concerning the issue. The nursing board has since terminated the rule making and has rescinded the position statement on propofol.

CORPORATE PRACTICE OF DENTISTRY IN IOWA

Ms. Price reported that staff included information on this issue in the recent renewal newsletter that went out to all licensed dentists.

DENTAL LABORATORIES – CONCERN WITH WORK OVERSEAS

Ms. Price reported that staff included information on this issue in the recent renewal newsletter mailed to all licensed dentists. Ms. Price reported that the board website has also been revised to include a sample “Laboratory Prescription and Point of Origin Form” that licensees can download and include in patient records to document point of origin and the materials used in any dental lab prosthesis given to patients.

TOOTH WHITENING – BOARD POSITION

Ms. Price provided the board members with a draft copy of a board position statement regarding tooth whitening. Board members discussed potential complications from tooth whitening that non-dental professionals would be unable to correct or address and asked staff to amend the draft position statement for review and approval at the January, 2009 board meeting.

APPLICATIONS FOR LICENSURE/PERMITS/REGISTRATION

APPROVAL OF APPLICATIONS

The board was provided with a list of the applications for licensure, permit, and registration that have been processed since the last meeting.

Between July 16, 2008, and October 27, 2008, the board licensed 21 dentists and 36 dental hygienists; issued 2 faculty permits, 5 temporary permits, 17 resident dental licenses, 1 conscious sedation permit, 1 general anesthesia permit, and 31 local anesthesia permits. The board registered 124 dental assistants with the additional qualification in dental radiography and 10 dental assistants registered without a qualification in dental radiography; the board issued 4 qualifications in dental radiography without registration, and trainee status to 100 dental assistants.

Motion by Dr. Roth, seconded Ms. Cacioppo, to approve issuance of licensure, permits, and registrations to those persons listed.

Vote: Unanimous.

Motion carried.

REQUEST FOR WAIVER

Dr. Marco Rouman is a foreign-trained dentist who submitted a request for waiver to be eligible to apply for an Iowa dental license. Dr. Rouman completed a 17-month program in geriatrics through the University of Minnesota College of Dentistry. Dr. Rouman is asking that the board accept his 17-month program in lieu of completing two years of undergraduate dental education at an accredited dental school. In the past, the board has required applicants for waiver to have a minimum of two full years in an accredited general practice residency or combination pediatrics/general practice residency to qualify for a waiver of this rule.

Motion by Ms. Cacioppo, seconded Ms. Meier, to deny the waiver as the applicant has not demonstrated that the criteria for waiver have been met.

Vote: Unanimous.
Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT

Dr. Kuempel allowed time for public comment.

CLOSED SESSION

Motion by Dr. Curry, seconded Ms. Parsons, for the board to go into closed session pursuant to Iowa Code Section 21.5(1)(d) and (f) to discuss and review complaints and investigative reports which are required by state law to be kept confidential and also to discuss decisions to be rendered in contested cases.

Vote: Ms. Cacioppo, aye; Ms. Parsons, aye; Dr. Roth, aye; Dr. Kuempel, aye; Dr. Rovner, aye; Dr. Curry, aye; Dr. Grimes, aye; Ms. Brennan, aye; Ms. Meier, aye.
Motion carried.

OPEN SESSION

Motion by Ms. Cacioppo, seconded Dr. Curry, for the board to return to open session.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
DANIEL J. SCHUSTER, D.D.S.

Motion by Ms. Cacioppo, seconded Dr. Curry, to reschedule this hearing for January 16, 2009, at 8:00 a.m.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
GARY S. LUNA, D.D.S.

Motion by Ms. Cacioppo, seconded Dr. Roth, to reschedule this hearing for December 10, 2008, at 1:00 p.m.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
SCOTT E. EIVINS, D.D.S.

The board considered a proposed Stipulation and Consent Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Curry, to approve the Stipulation and Consent Order in this matter as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
JAMIE E. SCHULTZ, R.D.H.

The board considered a proposed Stipulation and Consent Order in this matter. Dr. Rovner did not participate in the discussion of this matter.

Motion by Dr. Roth, seconded Ms. Cacioppo, to approve the Stipulation and Consent Order in this matter as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
DEBORAH L. MADONIA, R.D.A.

The board considered a proposed Notice of Hearing, Settlement Agreement and Final Order in this matter. Dr. Rovner did not participate in the discussion of this matter.

Motion by Ms. Cacioppo, seconded Dr. Grimes, to approve the Notice of Hearing, Settlement Agreement and Final Order as proposed in this matter.

Vote: Ms. Cacioppo, aye; Dr. Grimes, aye; Dr. Roth, aye; Ms. Meier, aye; Ms. Parsons, aye; Dr. Curry, aye. Dr. Rovner abstained.
Motion carried.

IN THE MATTER OF
BRIAN F. MCGARVEY, D.D.S.

The board considered a proposed Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Grimes, to approve the Notice of Hearing, Settlement Agreement and Final Order as proposed in this matter.

Vote: Ms. Cacioppo, aye; Dr. Grimes, aye; Dr. Roth, aye; Ms. Meier, aye; Ms. Parsons, aye; Dr. Curry, aye. Dr. Rovner abstained.
Motion carried.

IN THE MATTER OF
FRED J. WESTERCAMP, D.D.S.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Curry, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
KASI E. SNYDER, R.D.A.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Grimes, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
ROBERT R. BURNS, D.D.S.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

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Motion by Ms. Cacioppo, seconded Dr. Curry, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
THOMAS D. MCCOY, D.D.S.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Curry, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
CLAYTON A. LINQUIST, D.D.S.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Grimes, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
JYOTI P. CHOWDHURY, D.D.S.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Dr. Roth, seconded Ms. Parsons, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
CHARLES BOSWELL, D.D.S.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Curry, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
DANA R. SCHIERBROCK, R.D.A.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Grimes, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
DAVID L. JONES, D.D.S.

The board considered a proposed Combined Notice of Hearing, Settlement Agreement and Final Order in this matter.

Motion by Ms. Cacioppo, seconded Dr. Grimes, to approve the Combined Notice of Hearing, Settlement Agreement and Final Order as proposed.

Vote: Unanimous.
Motion carried.

IN THE MATTER OF
LARRY J. HANUS, D.D.S.

The board considered a proposed Reinstatement Order in this matter.

Motion by Dr. Curry, seconded Dr. Roth, to approve the Reinstatement Order as proposed.

Vote: Dr. Curry, aye; Dr. Roth, aye; Ms. Meier, aye; Dr. Grimes, aye; Ms. Parsons, aye; Dr. Rovner, aye; Ms. Cacioppo, nay.
Motion carried 6-1.

NEXT MEETING OF THE BOARD

The next meeting of the board is scheduled for January 15-16, 2009, in Des Moines, Iowa.

ADJOURNMENT

The board adjourned its meeting at 11:55 a.m. on October 29, 2008.

Respectfully submitted,



CONSTANCE L. PRICE
Executive Director

CLP/cb